

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

NOTICE OF MOTION NO.2701 OF 2005

IN

SUIT NO.2486 OF 2005

...

Jog Engineering Ltd. ...Plaintiffs

v/s.

State of Maharashtra & Anr. ...Defendants

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Mr.A.Y.Bookwala with Mr.Sandip Bhimelar i/b Wadia
Gandhy & Co. for the Plaintiffs.

Mr.A.A.Kumbhakoni, Addl.AG. with Mr.M.D.Naik for the
State of Maharashtra.

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CORAM: D.K.DESHMUKH, J.

DATED: 25TH APRIL, 2007

P.C.:

1 This Notice of Motion is taken out by the Plaintiff. So far as prayer causes (b) & (c) are concerned, the learned Counsel appearing for the Plaintiffs states that reliefs prayed by those prayer clauses cannot be granted.

2. So far as prayer clause (a) is concerned, perused the judgment of the Division Bench in Writ Petition No.3144 of 2004. Perusal of the affidavit filed in support of the motion shows that the Plaintiff has not indicated as to what are the elements of settlement involved in the suit. Unless the court finds that there are elements of settlement under Section 89, the matter cannot be referred to arbitration. In any case at this juncture the relief cannot be granted. Motion is disposed of. However, it is made clear that this order will not come in the way of the Plaintiff claiming reference to arbitration at appropriate stage.

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